

**REMARKS**

This Application has been carefully considered in connection with the Office Action. Reconsideration and allowance are respectfully requested in light of the following remarks.

On December 4, 2002, the Examiner issued a Restriction Requirement. The Restriction Requirement required Applicants to select one of the three groups of claims identified by the Examiner in the Restriction Requirement. In a Response to Restriction Requirement dated January 3, 2003, Applicants originally selected with traverse Group I, Claims 1-22, on page 1 in the Response to Restriction Requirement. Applicants also added Claims 37-44 in the Response to Restriction Requirement. However, under the heading of "In the Claims" on page 2 of the Response to Restriction Requirement, it was erroneously requested to cancel Claims 1-36, rather than Claims 23-36, as would be required with the election of Group I.

On February 3, 2003, the Examiner issued an Office Action examining Claims 37-44, but deemed Claims 1-36 cancelled. On April 22, 2003, Applicants' representative contacted the Examiner to request that the cancellation of Claims 1-22 be deemed non-effective due to the contradiction between the instructions of page 1 and page 2 of the Response to Restriction Requirement. The Examiner acceded to this request, for which Applicants thank the Examiner.

Claims 37-44 stand rejected under 35 U.S.C. § 102(e) as anticipated by U.S. Patent No. 6,233,247 to Alami et al. (Alami). Among other things, the present invention of Claim 37 recites a "mobile unit tuning to a paging channel of a second carrier

frequency in response to a message received on a sync channel of the first carrier frequency.” The Examiner suggests that Alami discloses this. (FIG. 1, steps 166-170; col. 7, line 54-col. 8, line 9; FIG. 2, steps 206-216 and corresponding description.)

Applicants respectfully traverse the rejection of independent Claim 37. Among other things, Alami does not appear to disclose, teach or suggest “tuning to a *paging* channel of a *second* carrier frequency in response to a message received on a *sync* channel of the *first* carrier frequency” (emphasis added), as recited in Claim 37.

Instead, Alami appears to be directed to, in steps 166-170, the mobile subscriber unit listening *to the paging channel* of the primary channel, and then the mobile selects a chosen carrier frequency from information presented within the paging channel. In Column 7, lines 54-col. 8, line 9, Alami appears to be directed to listening and responding to the “paging channel” to determine how many independent CDMA systems and frequencies are available. Alami then selects one of these available carrier frequencies. Similarly, steps 206-212 of Alami appear to be directed to listening to the paging channel. Alami then acquires a primary or other CDMA channel based upon information received over the paging channel. In the present invention of independent Claim 37, however, the mobile tunes *to the sync channel* of a *first* carrier frequency, and in response the mobile acquires *the paging channel* of a *second* carrier frequency.

In the invention of Claim 37, tuning to a paging channel in response to a message received on a sync channel has certain advantages. These advantages do not appear to be disclosed in Alami. For instance, responding to indicia received through the sync channel on a first carrier frequency enables the elimination of the paging channel on the first carrier frequency. The elimination of the paging channel can allow the first

frequency carrier to support one or more additional mobile calls. Alami, however, seems to be directed to substituting one carrier frequency for another carrier frequency by the mobile in the event of a carrier frequency failure. Alami does not appear to be directed to the improvement of call capacity within a carrier frequency.

In view of the foregoing, it is apparent that the cited reference does not disclose, teach or suggest the unique combination now recited in independent Claim 37. It is therefore submitted that Claim 37 clearly and precisely distinguishes over the cited reference in a patentable sense, and is therefore allowable over this reference and the remaining references of record. Accordingly, it is respectfully requested that the rejection of Claim 37 under 35 U.S.C. § 102(e) as unpatentable over Alami be withdrawn.

Claims 38-44 depend from and further limit independent Claim 37 in a patentable sense, and, for this reason and the reasons set forth above, are also deemed to be in condition for allowance. Accordingly, it is respectfully requested that the rejection of dependent Claims 38-44 be withdrawn.

Applicants respectfully assert that independent Claim 1 is patentable over Alami. Applicants further respectfully assert that Claim 1 is patentable for at least some of the same reasons that independent Claim 37 is patentable. Claim 1 recites "the second carrier frequency including a sync channel that directs at least one mobile units to tune to the paging channel of the first carrier frequency." Alami discloses the monitoring of the *paging* channel of a carrier to tune to a different carrier frequency. However, Alami does not appear to disclose, teach or suggest monitoring the *sync* channel of a carrier to tune to a different carrier frequency.

In view of the foregoing, it is apparent that the cited reference does not disclose, teach or suggest the unique combination recited in independent Claim 1. It is therefore submitted that Claim 1 clearly and precisely distinguishes over the cited reference in a patentable sense, and is therefore allowable over this reference. Accordingly, it is respectfully requested that Claim 1 be allowed.

Claims 2-13 depend from and further limit independent Claim 1 in a patentable sense, and, for this reason and the reasons set forth above, is also deemed to be in condition for allowance.

Applicants respectfully assert that independent Claim 14 is patentable over Alami. Applicants further respectfully assert that Claim 1 is patentable for at least for at least some of the same reasons that independent Claim 37 is patentable. Claim 14 recites “transmitting a message to the mobile unit on a *sync channel* of the first carrier frequency, the message directing the mobile unit to tune to a paging channel of a second carrier frequency” (emphasis added). Alami appears to disclose the monitoring of the *paging* channel of a first carrier frequency to transfer to a second carrier frequency. However, Alami does not appear to disclose, teach or suggest the monitoring of the *sync* channel of a first carrier frequency to tune to a second carrier frequency.

In view of the foregoing, it is apparent that the cited reference does not disclose, teach or suggest the unique combination recited in independent Claim 14. It is therefore submitted that Claim 14 clearly and precisely distinguishes over the cited reference in a patentable sense, and is therefore allowable over this reference. Accordingly, it is respectfully requested that Claim 14 be allowed.

Claims 15-22 depend from and further limit independent Claim 14 in a patentable

sense, and, for this reason and the reasons set forth above, are also deemed to be in condition for allowance.

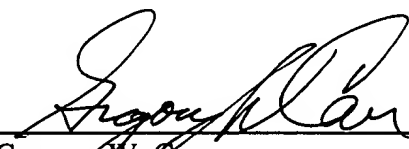
Applicants have now made an earnest attempt to place this Application in condition for allowance. For the foregoing reasons and for other reasons clearly apparent, Applicants respectfully request full allowance of Claims 1-22 and 37-44.

Applicants do not believe any fees are due in connection with the filing of this paper; however, in the event that any fees are due, the Commissioner is hereby authorized to charge any required fees due (other than issue fees), and to credit any overpayment made, in connection with the filing of this paper to Deposit Account No. 50-0605 of CARR LLP.

Should the Examiner have any questions or desire clarification of any sort, or deem that any further amendment is desirable to place this application in condition for allowance, the Examiner is invited to telephone the undersigned at the number listed below.

Respectfully submitted,

Date: 4/30/03

  
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